



**Rahm Emanuel**  
Mayor

**Department of Police · City of Chicago**  
3510 S. Michigan Avenue · Chicago, Illinois 60653

**Eddie.T. Johnson**  
Superintendent of Police

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March 7, 2019

**Via Email:**

J.K. Trotter  
MuckRock

[69115-04679657@requests.muckrock.com](mailto:69115-04679657@requests.muckrock.com)

**RE: NOTICE OF RESPONSE TO FOIA REQUEST**  
**FOIA FILE NO.: P473837**

Dear J.K. Trotter:

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request, received for the following:

*"Pursuant to the Illinois Freedom of Information Act, I hereby request the following records:*

*A copy of the case file maintained by the Chicago Police Department concerning its investigation into an alleged incident that took place on January 29, 2019 and involved a person named Jussie Smollett (DOB: June 21, 1982).*

*The case file includes all relevant documents that pertain to the Smollett investigation, the existence and activity of which has been publicly confirmed and discussed by Chicago Police Department officials on multiple occasions. These documents include the original incident report, witness testimonies, officer testimonies, evidence lists, officer notes, and other related record(s).*

*If any parts of the requested record(s) are unavailable because the investigation is still ongoing, please withhold or redact those record(s) until they are cleared for release.*

*Please note that this request does not seek or target any records whose release would require a privacy waiver. If the requested records contain such records, please withhold or redact them."*

Your request was reviewed by the undersigned in collaboration with the Department's Bureau of Detectives. As this case is actively being investigated, as further explained below, the release of information could interfere with the investigation. However, it has been determined that release of the Arrest Reports and Original Case Incident Report would not interfere with the ongoing investigation.

Please be advised that certain information has been redacted from the enclosed responsive records pursuant to 5 ILCS 140/7(1)(b), 5 ILCS 140/7(1)(c), and 5 ILCS 140/7(1)(d). Details of the redactions are set forth below.

Section 7(1)(b) exempts from disclosure “[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.” 5 ILCS 140/7(1)(b). The FOIA, in 5 ILCS 140/2(c-5), defines “private information” as follows:

“‘Private information’ means unique identifiers, including a person’s social security number, driver’s license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.”

Therefore, personal addresses, personal telephone numbers, driver’s license numbers, internal record numbers, and employee user codes/numbers are exempt and were properly redacted pursuant to Section 7(1)(b).

In addition, dates of birth, medical information, victim names and identifying information, and other third party names and identifying information of persons referenced incidentally in reports such as emergency contacts were also redacted as these individuals have a strong interest in keeping their identity private which outweighs any public interest in this information; therefore, this information is exempt and protected from disclosure pursuant to 5 ILCS 140/7(1)(c) of FOIA. Section 7(1) (c) exempts from inspection and copying the following:

“[P]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy... ‘Unwarranted invasion of personal privacy’ means the disclosure of information is that highly personal or objectionable to reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” *Id.*

Names and identifying information of persons who provided information to law enforcement personnel have also been redacted pursuant to 5 ILCS 140/7 (1)(d)(iv), which protects information that would:

- (iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies

It was determined that any other responsive records to your request are denied in their entirety. This is an ongoing investigation and any other responsive records pertaining to this case are exempt pursuant to FOIA under exemption 7(1)(d)(i) of FOIA (5 ILCS 140/7(1)(d)(i) (West 2010), as amended by Public Acts

97-333, effective August 12, 2011; 97- 385, effective August 15, 2011; 97-452, effective August 19, 2011), which allows a public body to withhold records that would interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by the law enforcement or correctional agency that received the FOIA request, and under exemption 7(1)(d)(iii) which allows a public body to withhold records that would create a substantial likelihood that a person will be deprived of a fair or an impartial hearing, and under exemption 7(1)(d)(vii) in which the release of records would obstruct an ongoing criminal investigation by the agency that is the recipient of the request.

While responsive records were identified, disclosing these records would adversely impact an ongoing Chicago Police Department investigation. In order to ascertain whether your request would interfere with an ongoing investigation, the matter was forwarded to the Department's Bureau of Detectives. The Bureau of Detectives stated that this case is still open and ongoing and search warrants are still open and have not been exercised yet; the premature release of records at this time could possibly jeopardize the progress of the investigation, compromise the identities of confidential sources, prosecutorial strategy, processing of evidence, interfere with court proceedings, and ultimately create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing. Therefore, these records must be withheld pursuant to 7(1)(d)(i), 7(1)(d)(iii), and 7(1)(d)(vii).

If I can be of further assistance, please contact me at the following address:

Chicago Police Department  
Attention: Freedom of Information  
Office of Legal Affairs, Unit 114  
3510 S. Michigan Avenue  
Chicago, IL 60653  
[foia@chicagopolice.org](mailto:foia@chicagopolice.org)

You have a right of review by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second St., Springfield, IL 62706. You may also seek judicial review under 5 ILCS 140/11.

Sincerely,

A. Marlan  
Freedom of Information Act Officer  
Chicago Police Department  
Office of Legal Affairs, Unit 114  
3510 S. Michigan Ave.  
Chicago, IL 60653